



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,272	07/31/2003	Byron Van Slovis	1072.P002 US	3374

32794 7590 08/18/2006

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE, CA 92612

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,272

Applicant(s)

SLOVIS, BYRON VAN

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 14-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 14-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-5,28, and 30-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the disclosure as originally filed for at least one pleat forming an inverted "V" shape. This is a new matter rejection.
2. Claims 1-5,28, and 30-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

How does at least one pleat form an inverted "V" shape?

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1,3,4,5,28,35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkes (US 5,549,388).

Whereas the instant claims do not specify what designates the "front" panel from the "back " panel except for the structure, the pocket device of Wilkes anticipates the claims. To the degree set forth, pleat **15** is an invented "V" shape when viewed with respect to the heat seal **14** being the first portion and the edge at **18** being the second portion.
5. Claim 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al. (US 3,934,631).

Art Unit: 3727

In view of the rejections under 35 USC 112, 1st and 2nd paragraphs set forth above, Wilson anticipates the claims. A pleated pocket device **10** has a back panel **27** formed from a single sheet of material having at least one pleat **36** formed near a centerline of the back panel, a first section located at the top of the device near the attachment to the hangar and a second section located near the middle of the back panel, the second section capable of expanding more than the first section and also in width and depth, and a front panel **26** connected to the back panel along the side edges to form a cavity adjacent the second section. It is noted claim 1 does not indicate the cavity is closed.

6. Claims 14-16, 18-21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Capy et al. (US 5,743,460).

In view of the rejections under 35 USC 112, 1st and 2nd paragraphs set forth above, Capy anticipates the claims. A pleated pocket device having a back panel **4** formed from a single sheet of material has at least one pleat **1** formed near a centerline of the back panel, a first section located at a side edge of the device and a second section located near the middle of the back panel, the second section *capable* of expanding more than the first section and in also width and depth, a front panel **3** connected to the back panel along the side edges to form a cavity adjacent the second section, and a third second **5** adjacent the second section and forming a cavity bottom. The pleats can be seen in the figures to be formed near the centerline of the back panel. It is noted either of the panels of Capy can be the front panel or the back panel.

Claim Rejections - 35 USC § 103

7. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkes in view of Six (US 6,182,872).

Art Unit: 3727

Wilkes teaches the claimed pocket device except for a pocket including a zipper and means for attaching the device to an apparatus. It is noted that the provisions of 35 USC 112, 6th paragraph have not been invoked.

Six teaches it is known to provide a pocket device **5** with a pocket **6** having a zipper for closing it and means for attaching the pocket device to an apparatus **2**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of the structure of Six to the pocket device of Wilkes. Doing provides a device attachable to an apparatus or other object, the device further having an auxiliary, closable pocket for holding other objects therein.

8. Claims 1-5, 14-32, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milstein (US 4,630,312).

Milstein teaches a pocket device as claimed except for the at least one pleat or the first and second pleats forming an inverted "V" shape, the first panel is shorter than the back panel, the back panel having a third, trapezoidal shape capable of expanding.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reverse the pleats of Milstein such that the narrow portion of the at least one pleat and/or the first and second pleats lies at the seamed portion at the opening of the bag, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. Doing so allows for expansion of the bag at the central portion of the bag as the bag is filled, yet relieves stress at the seamed portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the back panel with a longer, trapezoidal shaped third portion capable of expanding, since the examiner takes Official Notice of the equivalence of bag formed of a single, folded sheet and a bag formed of two sheets with a gusseted bottom for their use in the

Art Unit: 3727

bag art and the selection of any of these known equivalents to provide storage would be within the level of ordinary skill in the art. Doing so provides a gusseted bottom bag which is known to hold more than a bag having a bottom seamed or fold edge.

Response to Arguments

9. Applicant's arguments filed May 2, 2006 have been fully considered but they are not persuasive.

Regarding the rejection based upon Wilson, the claims are still anticipated by the prior art reference. The "at least one pleat forms an inverted "V" shape" to the same degree claimed. Applicant argues the bag of Wilson provides more structure than that claimed (see page 9, paragraph 3). This is not persuasive since the independent claim uses the open term "comprising". Thus, more structure in the prior art can be present than that claimed in the instant claims.

Regarding the rejection based upon Capy, wherein the instant claims do not set forth two separate sheets forming the front and back panels, the folded sheet allows the front panel to be coupled to the back panel along the side edges.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 3727

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

13. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

14. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

Art Unit: 3727

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
July 24, 2006


Robin A. Hylton
Primary Examiner
GAU 3727